

## **2009 DRAFTING REQUEST**

### **Bill**

Received: **01/21/2009**

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Weidner**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Eminent Domain - miscellaneous**

Extra Copies:

Submit via email: **NO**

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### **Pre Topic:**

DOA:.....Weidner, BB0499 -

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### **Topic:**

Eminent domain; department of commerce responsibilities

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### **Instructions:**

See attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 01/22/2009	nnatzke 01/23/2009		_____			State
/1			mduchek 01/23/2009	_____	cduerst 01/23/2009		

FE Sent For:

<END>

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/?	pgrant	1 run 1/22	MD	MD PH			

FE Sent For:

1/23  
<END>

## 2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Relocation Enforcement Related to Eminent Domain
- Tracking Code: **BB0499**
- SBO team: General Government and Economic Development
- SBO analyst: Jenna Weidner
  - Phone: x 6-7329
  - Email: [jenna.weidner@wisconsin.gov](mailto:jenna.weidner@wisconsin.gov)
- Agency acronym: COM
- Agency number: 143
- Priority (Low, Medium, High): High

Intent: To eliminate Commerce's Relocation Enforcement Role Related to Eminent Domain.

Require condemners to follow procedures, keep detailed records, make records available to requestors, and issue any property owner affected a guide approved by Commerce that clearly explains eminent domain law.

## Grant, Peter

---

**From:** Grant, Peter  
**Sent:** Wednesday, January 21, 2009 1:07 PM  
**To:** Weidner, Jenna M - DOA  
**Subject:** BB0499

Jenna, here are the cites to statutory sections in ch. 32 in which the Dept. of Commerce appears. The last one listed is where the department's enforcement authority and its duty to prepare and distribute the brochures explaining the eminent domain laws appears. Hope this helps focus the request.

32.19 (2) (b)  
32.19 (2) (e) 1.b.  
32.19 (3) (b) 1. to 3.  
32.19 (4) (a) 2.  
32.19 (4) (b)  
32.19 (4m) (a) 2.  
32.19 (4m) (b) (intro.)  
32.19 (4m) (b) 1.  
32.197  
32.20  
32.25 (1)  
32.25 (2) (h)  
32.26 (1) to (7)

Peter

Peter Grant, Managing Attorney  
Wisconsin Legislative Reference Bureau  
608-267-3362  
[peter.grant@legis.wisconsin.gov](mailto:peter.grant@legis.wisconsin.gov)

**Grant, Peter**

---

**From:** Weidner, Jenna M - DOA [Jenna.Weidner@wisconsin.gov]  
**Sent:** Thursday, January 22, 2009 3:22 PM  
**To:** Grant, Peter  
**Subject:** RE: suggestion

Sounds good. I have been playing phone tag w/ Commerce all afternoon on this one.

---

**From:** Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]  
**Sent:** Thursday, January 22, 2009 3:16 PM  
**To:** Weidner, Jenna M - DOA  
**Subject:** suggestion

Jenna, I'd really like to get a first draft done today so that you can look at it tomorrow. Otherwise, we're into next week. So how about if I eliminate all of Commerce's enforcement authority and its duty to prepare pamphlets that describe eminent domain procedures. I'll have the condemnors prepare the pamphlets and have Commerce approve them. I'll leave all of Commerce's rulemaking authority. OK?

Peter

01/22/2009

**Grant, Peter**

**From:** Weidner, Jenna M - DOA [Jenna.Weidner@wisconsin.gov]  
**Sent:** Thursday, January 22, 2009 4:32 PM  
**To:** Oliver, Aaron - COMMERCE; Brandon, Zach - COMMERCE  
**Cc:** Pawasarat, Jane - DOA; Grant, Peter  
**Subject:** Eminent Domain

Aaron and Zach,

I'm sorry for all the phone tag on this issue. Hopefully this email can do the trick. From our briefing documents, it looks like we approved the following:

*Eliminate Commerce's relocation enforcement role related to eminent domain. Require condemners to follow certain procedures, keep detailed records, make records available to requestors, and issue any property owner affected a guide approved by Commerce that clearly explains the law.*

Condemners are already required to follow certain procedures, keep detailed records and make records available to requestors and issue any property owner affected a guide approved by Commerce that clearly explains the law. The enforcement role of Commerce is primarily covered under s. 32.26 and should be easy enough to eliminate. Could you please confirm the following are additional assumptions related to that deletion?

1. The rule making authority under s. 32.26 (1) should remain with Commerce (as it relates primarily to housing standards and should require little to no maintenance), but the rule making authority under s. 32.26 (2) should move from Commerce to DOT.
2. The enforcement role under s. 32.26 (3) to (5) should be deleted altogether to allow for self-monitoring, rather than shifted to another department.
3. The content control of the informational pamphlets under s. 32.26 (6) should remain with Commerce

Thanks,  
 Jenna

**From:** Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 1:07 PM  
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**Subject:** BB0499

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Peter

Peter Grant, Managing Attorney  
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[peter.grant@legis.wisconsin.gov](mailto:peter.grant@legis.wisconsin.gov)

01/23/2009

**Grant, Peter**

**From:** Weidner, Jenna M - DOA [Jenna.Weidner@wisconsin.gov]  
**Sent:** Thursday, January 22, 2009 5:02 PM  
**To:** Grant, Peter  
**Cc:** Pawasarat, Jane - DOA  
**Subject:** FW: Eminent Domain, BB0499

Peter,  
 I just spoke with the EA at Commerce. The Deputy Secretary and EA agree with all suggestions in the email below. They further request that s. 32.26 (7) be deleted. DOA agrees. Please let me know if you have any questions.  
 Thank you so much for your help and your patience.  
 Jenna

---

**From:** Weidner, Jenna M - DOA  
**Sent:** Thursday, January 22, 2009 4:32 PM  
**To:** Olver, Aaron - COMMERCE; Brandon, Zach - COMMERCE  
**Cc:** Pawasarat, Jane - DOA; Grant, Peter - LEGIS  
**Subject:** Eminent Domain

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01/23/2009

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32.26 (1) to (7)

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Peter Grant, Managing Attorney  
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608-267-3362  
[peter.grant@legis.wisconsin.gov](mailto:peter.grant@legis.wisconsin.gov)



**Grant, Peter**

**From:** Grant, Peter  
**Sent:** Friday, January 23, 2009 8:30 AM  
**To:** Weidner, Jenna M - DOA  
**Subject:** RE: Eminent Domain, BB0499

Jenna, I think there is a problem with the first item in the email. If you really want to move the rulemaking authority in s. 32.26 (2) (a) from Commerce to DOT, I think you need to go through ss. 32.19 to 32.25 and change all the references from Commerce to DOT. For example, in 32.19 (2) (b), Commerce defines what a "comparable dwelling" is for purposes of the relocation benefits. So I think someone should look at all the references to Commerce that I sent you and make sure that DOT is what you want in each of them. (Of course, if we change them all to DOT, what's the point of keeping Commerce in 32.26 (1)?)

Regarding item 2 of the email, dealing with 32.26(4): I could take out the reference to Commerce there, but eliminating the entire subsection has the effect of making it unclear who prosecutes actions to enforce the chapter. Is that the result you're asking for?

Peter

---

**From:** Weidner, Jenna M - DOA [mailto:Jenna.Weidner@wisconsin.gov]  
**Sent:** Thursday, January 22, 2009 5:02 PM  
**To:** Grant, Peter  
**Cc:** Pawasarat, Jane - DOA  
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32.19 (4m) (a) 2.  
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01/23/2009

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1/23/09 TC from Jenna :  
17:00 am

leave (2) alone

delete (3), (4), (5), & (7)

rest untouched

Date (time)  
needed

LRB- 1691, 1

PG : nwn :

## DOA BUDGET DRAFT

Use the appropriate components and routines developed for bills.

>>FOR BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT . . . [DO NOT generate catalog]; relating to: the budget. . . . .

SA ✓  
X-ref ✓

### Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: . . . . . create → anal: → title: → head

For the subheading, execute: . . . . . create → anal: → title: → sub

For the sub-subheading, execute: . . . . . create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: . . . . . create → anal: → text

(attached)

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION #.

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

SEC. AM. 32.26 (title)  
32.26 (title) Authority of the department  
of commerce and <sup>the</sup> attorney general

SEC. REP. 32.26 (3)

SEC. REP. 32.26 (4)

Section #. 32.26 (4) of the statutes is amended to read:

32.26 (4) ~~Upon the request of the department of commerce, the attorney general shall aid and~~  
prosecute all necessary actions or proceedings for the enforcement of this subchapter and for the  
punishment of all violations of this subchapter.✓

History: 1971 c. 103; 1971 c. 211 s. 126; 1977 c. 438, 449; 1979 c. 361; 1983 a. 236 s. 12; 1985 a. 332 s. 251 (5); 1987  
a. 399; 1995 a. 27 ss. 1727 to 1735, 9116 (5).

SEL. RP. ✓ 32026 (5)

SEL. RP. ✓ 32. 26 (7)

2005

Nonstat File Sequence: **AAA**

LRB \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**NONSTAT SESSLAW**

1. In the component bar:

For the action phrase, execute: ..... create → action: → \*NS: → nonstat

For the budget action phrase, execute: ..... create → action: → \*NS: → 91XX

For a subsection, execute: ..... create → text: → \*NS: → sub

For a paragraph, execute: ..... create → text: → \*NS: → par

For a subdivision, execute: ..... create → text: → \*NS: → subd

For a subdivision paragraph, execute: ..... create → text: → \*NS: → subpar

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9100 department code.

**SECTION #**

[91 1 0].

Nonstatutory provisions; ...

... department of commerce.

(#1) ( ) Enforcement relocation benefits.

(a) Notwithstanding section 32026 (3) of the statutes, as affected by this act, any actions commenced under section 32.26 (3) 2007 statute before the effective date of this paragraph may continue under section 32.26 (3), 2007 statute.

(b) Notwithstanding section 32026 (5) of the statutes, as affected by this act, any petition submitted under section 32026 (5) 2007 statute before the effective date of this paragraph may be acted upon under section 32026 (5) 2007 statute.

(End)

ANALYSIS

EMINENT DOMAIN

Under current law, the Department of Commerce may make investigations to determine whether a condemnor is <sup>complying</sup> with the laws relating to <sup>relocation benefits</sup> and may seek an order from a circuit court requiring compliance with those laws or <sup>discontinuance</sup> of work on that project that is not in compliance. <sup>on</sup> This bill eliminates this authority.

Currently, a person displaced by the acquisition of property by a condemnor may petition the Department of Commerce for Commerce review of his or her complaint. The department may attempt to negotiate an acceptable solution with the condemnor. This bill eliminates



STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

these provisions ✓  
these provisions ✓

Current law directs <sup>directs</sup> the Department  
of Commerce to prepare pamphlets describing  
the eminent domain laws and make them  
available to condemnors ✓ A condemnor must  
provide the pamphlets to <sup>to</sup> property owners  
affected by the acquisition of property by  
the condemnor ✓ This bill <sup>directs each</sup> directs each  
condemnor to do so ✓ The condemnor must  
submit its pamphlets to the department <sup>of Commerce</sup> for  
approval ✓ the bill does not affect the  
condemnor's responsibility to provide the pamphlets  
to property owners ✓

→ FE - SL

eliminates the <sup>duty</sup> duty of the department to  
prepare such pamphlets ✓ and instead



STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

A Current law <sup>directs</sup> the attorney general <sup>at the request of Commerce,</sup> ~~must~~ to  
 prosecute <sup>prosecute</sup> all necessary actions or proceedings  
 for the enforcement of the laws relating to  
 relocation benefits <sup>✓</sup> ~~at the request of Commerce~~  
 This bill eliminates this directive <sup>✓</sup> ~~at the request of Commerce~~

FE-S



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1691/1

PG:nwn:md

DOA:.....Weidner, BB0499 - Eminent domain; department of commerce responsibilities

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**EMINENT DOMAIN**

Under current law, Commerce may make investigations to determine whether a condemnor is complying with the laws relating to relocation benefits and may seek an order from a circuit court requiring compliance with those laws or discontinuance of work on that part of the project that is not in compliance. This bill eliminates this authority.

Currently, a person displaced by the acquisition of property by a condemnor may petition Commerce for review of his or her complaint. Commerce may attempt to negotiate an acceptable solution with the condemnor. This bill eliminates these provisions.

Current law directs the attorney general, at the request of Commerce, to prosecute all necessary actions or proceedings for the enforcement of the laws relating to relocation benefits. This bill eliminates this directive.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 32.26 (3) of the statutes is repealed.

2       **SECTION 2.** 32.26 (4) of the statutes is repealed.

3       **SECTION 3.** 32.26 (5) of the statutes is repealed.

4       **SECTION 4.** 32.26 (7) of the statutes is repealed.

5       **SECTION 9110. Nonstatutory provisions; Commerce.**

6       (1) ENFORCEMENT; RELOCATION BENEFITS. (a) Notwithstanding section 32.26 (3)  
7       of the statutes, as affected by this act, any actions commenced under section 32.26  
8       (3), 2007 stats., before the effective date of this paragraph may continue under  
9       section 32.26 (3), 2007 stats.

10       (b) Notwithstanding section 32.26 (5) of the statutes, as affected by this act, any  
11       petition submitted under section 32.26 (5), 2007 stats., before the effective date of  
12       this paragraph may be acted upon under section 32.26 (5), 2007 stats.

13                               **(END)**